REMARKS

As a consequence of this amendment, claims 1, 2, 4, 5, 7-11, 14-16, and 18-25 are now in the application.

Applicant respectfully requests reconsideration of the rejection of claim 2 under 35 USC 112, second paragraph, as being indefinite. Applicant has deleted the words "the level of", so that the claim now states that the rim section "comprises a top portion that projects above said crown section". Applicant submits that claim 2 as amended is definite and fairly based on Applicant's disclosure. Therefore, withdrawal of the rejection of claim 2 is respectfully solicited.

Applicant also respectfully requests reconsideration of the rejections under 35 U.S.C. 103(a) of claims 4, 5, 7-11, 14, 15 and 19 as unpatentable over Robinson, the rejection of claims 1 and 2 as unpatentable over Robinson in view of Wise, the rejection of claims 16 and 18 as unpatentable over Robinson in view of Wise and Scott, and the rejection of claims 1, 2, 4, 5, 7-11, 14-16, 18 and 19 as unpatentable over Wise in view of Robinson. This request for reconsideration is premised on the changes made to the claims and also the following remarks.

As noted on pages 1 and 2, Applicant's invention is directed to removing the danger of toddlers drowning in unattended open containers, notably conventional plastic pails which typically have a capacity in the range of 4.5 to 5.5 gallons. Toddlers are top-heavy, with the result that when a toddler leans over to peer into a multi-gallon plastic pail, there is a tendency for the child to topple head first into the container without the container tipping over. Should the unattended plastic pail contain liquid, the toddler may be unable to extricate itself from the upright pail, with the result that he or she drowns in the liquid.

Applicant's invention solves the problem by modifying the shape of the bottom wall of the container in a manner that provides positional stability for the container when it is empty or partially or fully filled, yet makes it easy for the container to tip over when a toddler leans over and reaches into the container.

This is accomplished without drastically modifying the size of the container or the ratio of the height-to-diameter dimensions of the pail. Conventional plastic pails are formed with covers that permit full containers to be stacked one on top of the other, as is required for warehousing and shipping. The invention retains this stacking capability, with Applicant's containers each being provided with a cover that is contoured to nest the contoured bottom end wall of a container that is stacked on top.

The essence of Applicant's invention is best illustrated in Figs. 1 and 7. As shown in those drawings and described in Applicant's specifications (pages 4 and 5), the bottom end of the container is curved and recessed so as to have an annular convex projecting portion 20 that is a continuation of the side wall and a recessed circular center section that is substantially flat, with the contoured section 20 preferably having a single radius of curvature. The convex section 20 is shaped so that at its low point it will make a circular line of contact with a flat supporting surface such as a floor or shelf. In the preferred embodiment of the invention, the convex section 20 is shaped so that its circular line contact has an effective diameter that does not exceed one-half of the maximum diameter of the container and preferably has a smaller value, but not less than 25% of that maximum diameter.

A further advantage of Applicant's invention as disclosed is that the overall height of the container can be changed to vary the capacity from 3 ½ gallons to 6 ½ gallons, with the top diameter and the bottom diameter of the side wall remaining constant with only the draft of the side wall changing to avoid any change of the top and bottom diameters (see paragraph bridging pages 8 & 9 of Applicant's specification).

The references cited by the Examiner clearly do not teach or suggest Applicant's invention or its advantages.

As noted by the Examiner, the patent to **Robinson** discloses a container having a bottom wall with an annular protuberance. However, the patent to Robinson fails to disclose a container that is designed to tip over in order to avoid

the possibility of a child drowning as a consequence of falling into the container. More specifically, Robinson discloses a container having a height that is substantially less than its maximum diameter. As a consequence of that height-to-maximum diameter ratio, it is obvious that the Robinson's container is very stable and would not tip over as is assured with Applicants' invention. Nor is there any appreciation or suggestion in Robinson that his container could be made tiltable to avoid child drowning by changing any of its dimensions. In this respect it is to be noted that although the annular protuberance of Robinson's container may make a circular line contact with a supporting surface, that circular line of contact will have a diameter substantially in excess of one-half the maximum diameter of the container, contrary to Applicant's teaching.

It is noted that the Examiner has stated *that "Robinson is not of a large size that a toddler could fall into. It would have been an obvious matter of design choice to make the container of Robinson of a larger size, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being in the level of ordinary skill in the art".* Applicant responds to that statement by noting that it ignores the purpose and advantage of Applicant's design and also that Applicant's design is more than merely making the container of Robinson of a larger size. Applicant's invention is directed to conventional pail-type containers which have a height greater than their maximum diameter and also have a flat bottom that stabilizes them against tipping over, since a toddler who has fallen into such a container head first would be unable to remove himself or herself from the container. Applicant's invention comprises contouring the bottom wall of the container so as to provide an annular protuberance that will allow the container bottom to engage a supporting surface in a manner that stabilizes the container while simultaneously promote tilting of the container when a child leans over into it, thereby preventing the child from falling head first into the container and incurring the risk of drowning.

The patent to **Wise**, like the patent to Robinson, does not teach or suggests how to provide a container having the child-protecting tipping action that characterizes containers embodying Applicant's invention.

The patent to **Scott**, cited in the remarks pertaining to the overall rejection of claims 1-19 as unpatentable over Wise in view of Robinson, does pertain to providing a container with a bottom end wall that is designed to allow the container to tip over and prevent drowning of a toddler. However, the bottom wall configuration of Scott is nothing at all like the bottom wall configuration that characterizes Applicant's invention. Furthermore, the bottom wall of Scott is so different from the bottom walls of Robinson and Wise as to make it unobvious from Scott to modify the Robinson or Wise bottom walls so as to achieve a bottom wall design as required by Applicant's invention. Moreover, unlike Applicant's novel design, Scott's design is complicated and costly and lacks the same degree of stability as is achieved with Applicant's invention because the diameter of the circular line of contact made by its longest and center-most cylindrical extension 28 is quite small. Even if the containers of Wise or Robinson were to be modified to incorporate the teachings of Scott, the resulting construction still would not conform to the constructions disclosed and claimed by Applicant.

The other references of record also fail to teach or suggest Applicant's invention.

The **Novick** patent has no relation to a design for avoiding child drowning. It has a standard bottom wall construction in which the bottom wall is slightly recessed commencing adjacent the side wall of the container. The container of Novick clearly is not conducive to easy tipping to avoid child drowning.

The patent to **Devine et al**. is pertinent only to the extent that it discloses the concept of forming containers with a draft so that they can be stacked one inside the other, and also providing a cover that is shaped so as to permit nesting of the bottom wall when the containers are stacked one upon the other. Devine

does not disclose a container having a bottom wall shaped to promote tipping if a child should topple into it open top end.

The patent to **Fotos** pertains to plastic containers which also have a recessed bottom end and which are tapered so that they can be stacked one inside the other, with the containers having a cover that is contoured so as to provide proper nesting when one container is stacked upon another covered container. Like Devine, the reference does not disclose a container having a bottom wall shaped to promote tipping if a child should topple into it open top end.

The claims now in the application are believed to clearly distinguish from the references. The salient features of Applicant's invention are clearly defined in the claims. Thus, for example, claim 1 requires that the container have a circular side wall with a maximum diameter at its top end and a height that substantially exceeds the magnitude of the maximum diameter. Claim 1 also calls for the angular protuberance being located so that a circumferentially-extending portion of the protuberance is located between the side wall and the recessed section and makes a circular line contact with a floor or other supporting surface, with the circular line contact having a diameter that does not exceed said maximum diameter, so that in the event that a toddler should fall head first into the open container while the container contains a liquid, the weight of the toddler exerted on the top end of the container will cause the container to tip over so as to spill the liquid and prevent the toddler from drowning. Similar language is found in independent claims 4, 11 and 14.

The other claims add other limitations. Thus, for example, claim 8 is drawn specifically to a so-called "five gallon container" and calls for a specific height, a specific side wall draft angle and a maximum outside diameter, while claim 9 falls for the angular protuberance to make a circular line contact having a diameter of approximately 5 inches.

All of the claims now in the application have an adequate basis in the specification and the changes to the claims made by this amendment do not

produce any new matter. Instead, the changes to the claims merely clarify the essence of Applicant's invention. The new claims added by this amendment all depend from one of the aforementioned independent claims and are believed to be allowable for the same reasons as those claims and also because they add other limitations which are neither disclosed nor suggested by any other prior art of record.

In view of the foregoing remarks, prompt and favorable reconsideration of this application is solicited.

Respectfully submitted,

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